REMARKS

Claim Rejections – 35 U.S.C § 112

The examiner rejected claim 65 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the examiner asserted that the limitation "the undeformed diameter of said ring" on line 6 through 7 lacked sufficient antecedent basis. Claim 65 has been amended to call for "a deformable ring having a diameter." As such, antecedent basis for "the undeformed diameter of said ring" has been provided. Reconsideration of the rejection is requested.

Claim Rejections Based Upon Prior Art

The examiner rejected claims 65-69, 75-79, and 81 under 35 U.S.C. § 102(b) as being anticipated by Polansky (US 3,304,557). In the alternative, the examiner rejected the aforementioned claims under 35 U.S.C. § 103(a) as being obvious over Polansky as evidenced by Hammerslag et al. (US 4,921,482) or Penner et al. (US 6,416,474) or Noland (US 4,201,035). In the Office action, the examiner conceded that the picks of Polansky are not metal. Office Action, page 3. Independent claims 65, 66, 67, 75, and 81 have all been amended to recite a metal wire. As Polansky fails to disclose a metal wire, Polansky does not anticipate any of the aforementioned independent claims or claims dependent thereon.

With respect to the § 103 rejection, the examiner asserts, "one could argue that the picks of Polansky are not windings of a strand of material because there is no explicit description of such." Office action, page 3. In particular, the examiner asserts "the structure of multiple windings of a single wire and windings of a plurality are substantially identical in view of the fact that the picks of Polansky are all held tightly and integrally in the weave structure." Office action, pages 3-4. It is respectfully submitted that Polansky's picks are not substantially identical.

For example, claim 67 recites the windings wound one over the other to form coils that are connected together in a compact bundle. As described in the specification, in one embodiment, the annular, resilient clamping ring 30 shown in Figures 1, 8, and 10, may

be formed of a plurality of strands 32 of resilient wire. Specification, page 7, lines 6-19. In one embodiment, the ring 30 may be formed by wrapping a single length of wire around a mandrel having a central access "C" and then securing the strands into a bundle using ties 34. *Id.* Thus, in some embodiments wrapping or winding a wire 360° around an object forms the windings.

In contrast, Polansky's picks are part of the woven fabric that makes up Polansky's tube. Polansky weaves two distinct layers of fabric, which are joined together at the selvedge edge. Polansky's flat woven fabric is blocked into a cylinder. Column 3, lines 20-24; column 4, lines 44-45; column 5, lines 28-34. Because the picks of Polansky are not wound around an object, it is respectfully submitted that the two are not substantially identical, and it would not be obvious to modify Polansky as suggested. In view of the amendments and argument presented above, reconsideration of the rejection of claims 65-69, 75-79, and 81 is requested.

35 U.S.C. § 103(a) Rejections

The examiner rejected claims 70-73 under 35 U.S.C. § 103(a) as being unpatentable over Polansky (US 3,304,557) in view of Inoue (US 5,290,305). As explained above, Polansky fails to disclose windings. Thus, neither Polansky nor Inoue disclose all of the limitations of claim 70 alone or in combination.

Additionally, Polansky fails to disclose a bent structure of the device where the annular element is bent into a C-shape as claimed. Office action, page 4. The examiner asserts that it would be obvious to modify Polansky in view of Inoue. It is respectfully submitted that there is no suggestion or motivation to modify Polansky in view of Inoue.

For example, Polansky's tube includes picks integrated into the weave of the tube that prevent the tube from kinking or collapsing even when repeatedly flexed. Column 3, lines 20-24. The picks supply the necessary rigidity in the tube. Column 4, lines 24-30. In fact, Polansky's tube may be rigid radially with longitudinal flexibility. Column 6, lines 56-57. Because Polansky's picks supply the necessary rigidity to the tube, and the picks may be rigid radially, *prima facie* evidence has not been provided to establish that Polansky's picks are indeed capable of being bent in a C-shape as a means to store or

deliver the same. As such, it is respectfully submitted that the examiner has failed to establish a case of *prima facie* obviousness.

New claim 82 calls for an element comprising a bundle of overlapping windings formed of a strand of wire, the bundle substantially circular in cross-section, at least two of the overlapping windings having different radii, the element dimensioned to resiliently engage a first human blood vessel in a C-shaped deformed configuration, folded about a diametric axis of the element, a part of said C-shaped deformed element to resiliently engage the first human blood vessel past a point of intersection of the first blood vessel and a second blood vessel to permit communication of the intersection.

In addition to the above, neither Polansky nor Inoue are dimensioned to resiliently engage a first human blood vessel in a C-shaped deformed configuration, folded about a diametric axis of the element. For example, as shown in Figure 14B of Inoue, when the artificial blood vessel 7 is fully released the end wire rings 10 are circular when "urged against the inner wall of the blood vessel 9." Column 9, lines 9-12. Notably, the diameter of the end wire rings 10 is "set in accordance" with that of the artificial blood vessel 7. Column 5, lines 58-62. There is nothing in Inoue to suggest that the end wire rings 10 are dimensioned to engage a first human blood vessel as claimed. This understanding is supported by Inoue's description where folded rings 10 are restored "to their original shape," which is circular. *See* column 9, lines 46-58. Taken together, it is clear that Inoue does not specifically disclose or suggest prosthesis including an annular, resilient element, dimensioned to resiliently engage a first human blood vessel in a C-shaped deformed configuration, folded about a diametric axis of the element.

Polansky does not cure the deficiency of Inoue. For example, Polansky's vascular part is to be free from kinking or collapsing in any desired diameter or length. Column 1, lines 60-63. As such, new claim 82 is believed to be patentable over the cited art for at least this additional reason.

The examiner rejected claim 32 under 35 U.S.C. § 103(a) as being unpatentable over Marcade (US 5,676,696) in view of Palmaz et al. (US 5,316,023). Independent claim 32 has been amended to call for a second section including a resiliently deformable

second annular element comprising a bundle of radially overlapping windings formed of a strand of resilient wire. It is respectfully submitted that neither Marcade nor Palmaz disclose a second section including a resiliently deformable second annular element comprising a bundle of radially overlapping windings formed of a strand of resilient wire.

For example, Marcade's stents 154 and 162 are generally formed by bending a wire back and forth in a curved pattern in the longitudinal direction of the graft and then wrapping in a circumferential direction transverse to the longitudinal direction to form loop(s) of a predetermined circumference. Column 13, lines 43- column 14, line 14.

With reference to Palmaz, his tubular members 201 have a wall surface that is substantially uniform in thickness with a plurality of slots 173 formed therein. The slots are substantially parallel to the longitudinal access of the member 201. Column 8, lines 47-54; column 10, lines 9-15.

Because neither Marcade nor Palmaz disclose a second section including a resiliently deformable second annular element comprising a bundle of radially overlapping windings formed of a strand of resilient wire, claim 32 is patentably distinct therefrom. As such, reconsideration of the rejection is requested.

MISCELLANEOUS

Support for Amendments to the Claims

At a minimum, amendments are supported in the specification and the drawings at least in Figures 1-5, 8-10, 17-21, and 23 and corresponding text. However, additional support may be found elsewhere in the specification and is not limited to the aforementioned figures and text.

Copending Applications

A list of the copending applications is provided below. The applications are stored in image format, and examiner Prebilic is the examiner for each of the copending applications. Thus, the examiner is requested to refer to the IFW for the following:

1. Serial No. 10/118,409, filed April 8, 2002, which is a continuation of the 08/878,908 application.

2. Serial No. 10/124,994, filed April 18, 2002, which is a divisional of the '908 application.

3. Serial No. 10/832,159, filed April 26, 2004, which is a divisional of application 09/365,860, filed August 3, 1999, which issued as Patent No. 6,740,111, which is a continuation of the '908 application.

Request For Interview

The applicant's desire a personal interview with the examiner at the United States Patent and Trademark Office. Thus, the examiner is requested to defer taking any further action in this case until such time that an interview may be had. Upon acceptance of the request for interview, the examiner is asked to call the undersigned to coordinate an interview time.

CONCLUSION

In view of the amendments and remarks herein, the application is in condition for allowance. The examiner's prompt action in accordance therewith is respectfully requested. The commissioner is authorized to charge any additional fees, including extension of time fees, or credit any overpayment to Deposit Account No. 20-1504 (VAS.0002US).

Respectfully submitted,

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